

UNITED STATES DISTRICT COURT
for
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

U.S.A. vs. Sheneka J. Kizer

Docket No. 5:13-CR-38-1BO

Petition for Action on Supervised Release

COMES NOW Linwood E. King, probation officer of the court, presenting a petition for modification of the Judgment and Commitment Order of Sheneka J. Kizer, who, upon an earlier plea of guilty to Possession With Intent to Distribute Schedule II Controlled Substance Cocaine Base "Crack," was sentenced by the Honorable Theresa L. Springman, U.S. District Judge in Northern District of Indiana, on October 5, 2004, to the custody of the Bureau of Prisons for a term of 87 months. It was further ordered that upon release from imprisonment the defendant be placed on supervised release for 60 months under the standard conditions adopted by the court and the following additional conditions:

1. The defendant shall not illegally possess a controlled substance.
2. The defendant shall participate in a drug aftercare treatment program which may include urine testing under a co-payment plan at the direction and discretion of the probation officer.
3. The co-payment amount is based on annual poverty guidelines established by the U.S. Department of Health and Human Services (HHS) on a sliding scale. The co-payment amount shall not exceed an amount determined by the Probation Officer's sliding scale for Monthly Co-Payment.

Sheneka J. Kizer was released from custody on January 6, 2009, at which time the term of supervised release commenced.

On August 3, 2012, a Violation Report was filed in the Northern District of Indiana reporting the defendant's criminal charge for Driving While Impaired in Wake County, North Carolina.

On February 4, 2013, jurisdiction in this case was transferred from the Northern District of Indiana.

RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:

On February 24, 2013, the defendant was again charged with Driving While Impaired (13CR204642) in Wake County, North Carolina. According to the citation filed by Raleigh Police Officer O.S. Brewer, the defendant was observed driving while under the influence of an impairing substance at approximately 4:10 am. According to the defendant, this incident occurred after she fell asleep at a stop light. The defendant was subsequently arrested and transported to the Wake County Jail. At the time of processing, Kizer submitted to a breathalyzer test, which reportedly

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resulted in a BAC of .08. The defendant was released on bond, and this case remains pending. The court date is scheduled for April 15, 2013. To address this behavior, we are recommending that Kizer be allowed exposure to substance abuse treatment. In mitigation, the defendant successfully completed the Surprise Urinalysis Program in April 2009 after all urine specimens returned negative for illegal substance use for a 1-year period, and she continues to test negative when directed to submit random urine specimens to date. However, to address her new criminal conduct, we are recommending a punitive sanction of 24 hours of community service.

The defendant signed a Waiver of Hearing agreeing to the proposed modification of supervision.

PRAYING THAT THE COURT WILL ORDER that supervised release be modified as follows:

1. The defendant shall perform 24 hours of community service as directed by the probation office and if referred for placement and monitoring by the State of North Carolina, the \$200 fee is waived.

Except as herein modified, the judgment shall remain in full force and effect.

Reviewed and approved,

I declare under penalty of perjury that the foregoing is true and correct.

/s/Michael C. Brittain
Michael C. Brittain
Senior U.S. Probation Officer

/s/Linwood E. King
Linwood E. King
U.S. Probation Officer
310 New Bern Avenue, Room 610
Raleigh, NC 27601-1441
Phone: (919) 861-8682
Executed On: April 8, 2013

ORDER OF COURT

Considered and ordered this 9 day of April, 2013, and ordered filed and made a part of the records in the above case.


Terrence W. Boyle
U.S. District Judge